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Attorneys for defendant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

MARLENE G. MEYER,)
)
Plaintiff,)
)
v.)
)
ARG ENTERPRISES, INC. aka STUART)
ANDERSON'S CATTLE COMPANY)
RESTAURANTS,)
)
Defendant.) Case 3:05-cv-00239-TMB
)

JOINT DRAFT PROPOSED PRETRIAL ORDER

The parties have conferred and hereby file their Joint Draft Proposed Pretrial Order as follows. Plaintiff's Exhibit List and Witness List were received by facsimile and are filed as received.

A. This matter arises out of a trip-and-fall incident which occurred on January 7, 2003. Plaintiff alleges

negligence against defendant ARG Enterprises, Inc., also known as Stuart Anderson's Cattle Company Restaurant in Anchorage.

Plaintiff has also alleged negligence per se based on an alleged code violation. This claim is the subject of an outstanding motion for summary judgment.

Plaintiff has claimed negligence, that Cattle Company did not take reasonable measures to maintain their property to avoid the unreasonable risk of harm to patrons by allowing a difference in elevation between two pieces of cement making up the covered sidewalk outside the restaurant. Plaintiff is claiming past and future medical damages and past pain and suffering.

Defendant claims that it maintains its premises in a reasonably safe condition and that plaintiff Marlene Meyer is comparatively negligent for not recognizing and/or avoiding the alleged defect in the sidewalk.

B. Plaintiff has agreed in interrogatories to a stipulated amount of \$23,161.64 in medical bills as a result of this accident. Defendant does not dispute this amount. Plaintiff is also claiming for past and future pain and suffering during her approximately six month recovery from

this accident. Plaintiff may be claiming future medical bills.

C. Uncontested Facts

Plaintiff Marlene Meyer visited the Cattle Company restaurant in Anchorage, Alaska on January 7, 2003 and had lunch. After exiting the building, she proceeded to the northeast corner of the building where she tripped and fell injuring her wrist and face. At the approximate location of her fall, two pieces of cement making up the sidewalk are displaced at the seam between the pieces of cement by up to $\frac{3}{4}$ of an inch depending on how and where the measurement was taken.

Ms. Meyer filed a report with the store at that time and had bruising and a broken lip.

As a result of the accident, Ms. Meyer was initially diagnosed with a fractured wrist and facial contusions. Subsequent evaluations also diagnosed a fractured orbital bone. These fractures took approximately six months to heal.

Marlene Meyer suffered no lost wages or lost income as a result of the accident.

D. The issues remaining for the jury are whether Cattle Company was negligent; whether Marlene Meyer was

comparatively negligent; and what are her non-economic damages as a result of this accident.

E. Defendant's Exhibit List, attached

F. Defendant's Witness List, attached

DATED this 16th day of April, 2007, at Anchorage, Alaska.

RICHMOND & QUINN
Attorneys for Defendant

By: s/ William A. Earnhart

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by mail this 16th day of April, 2007 to:

Robert J. Jurasek
PENTLARGE LAW GROUP
1400 W. Benson Blvd., Ste. 550
Anchorage, Alaska 99503

/s/ William A. Earnhart
RICHMOND & QUINN

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